

RESOLUTION NUMBER OB14-02

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE SEAL BEACH REDEVELOPMENT AGENCY MAKING FINDINGS TO RE-ESTABLISH THE SEWER EASEMENT LOAN AGREEMENT AS AN ENFORCEABLE OBLIGATION AND TAKING CERTAIN RELATED ACTIONS

RECITALS:

A. The Seal Beach Redevelopment Agency (the "Former RDA") was a duly constituted redevelopment agency pursuant to provisions of the Community Redevelopment Law (the "Redevelopment Law") set forth in Section 33000 et seq. of the Health and Safety Code ("HSC") of the State of California (the "State").

B. The Former RDA undertook a program to redevelop a project area known as the Riverfront Redevelopment Project (the "Project Area").

C. Bay City Partners, LLC ("Bay City"), the Former RDA, the City of Seal Beach (the "City") and the City of Seal Beach Planning Commission, entered into a Settlement Agreement and Mutual Release, dated as of March 16, 2011 (the "Settlement Agreement"), after multiple years of litigation proceedings.

D. The Settlement Agreement, among other matters, provided for Bay City's conveyance of an irrevocable easement on a certain property for sewer access, construction and maintenance purposes (the "Sewer Easement").

E. The acquisition of the Sewer Easement was necessary to provide services to residents and businesses within the Project Area and, therefore, of benefit to the Project Area.

F. The City and the Former RDA agreed that the City would advance certain funds for the costs relating to the acquisition of the Sewer Easement (the "Loan"), with the understanding that the Former RDA would repay the City for such advances.

G. The Former RDA's repayment obligation with respect to the Loan was memorialized by Resolution No. 11-10, adopted by the Former RDA on June 27, 2011, and Resolution No. 6151, adopted by the City Council of the City on June 27, 2011 (together, the "Sewer Easement Loan Agreement").

H. As of the date of this Resolution, \$1,200,000 of the principal amount of the Loan, plus certain accrued interest, remain outstanding and unpaid.

I. Pursuant to AB X1 26 (which became effective at the end of June 2011), and the California Supreme Court's decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.* (53 Cal.4th 231(2011)), the Former RDA was dissolved as of February 1, 2012, the Successor Agency was constituted as the successor entity to the Former RDA, and an oversight board of the Successor Agency (the "Oversight Board") was established.

J. Pursuant to AB X1 26, except for those provisions of the Redevelopment Law that are repealed, restricted or revised pursuant to AB X1 26, all authority, rights, powers, duties and obligations previously vested with the Former RDA under the Redevelopment Law are vested in the Successor Agency.

K. Pursuant to HSC Sections 34171(d) and 34178, the Sewer Easement Loan Agreement became unenforceable on the Successor Agency as

of February 1, 2012; provided, however, that pursuant to HSC Section 34191.4(b), the Loan shall be re-established and the Sewer Easement Loan Agreement shall be deemed to be an enforceable obligation after the Successor Agency receives a finding of completion (a "Finding of Completion") from the State Department of Finance (the "DOF") under HSC 34179.7, if the Oversight Board makes a finding that the Loan was for legitimate redevelopment purposes.

L. The DOF issued a Finding of Completion to the Successor Agency on July 16, 2013.

M. The Board of Directors of the Successor Agency adopted Resolution No. SA14-02 on February 24, 2014, as an application requesting the Oversight Board to make a finding that the Loan was made for legitimate purposes for the purposes of HSC Section 34191.4(b).

N. After having reviewed the information relating to the Sewer Easement Loan Agreement, the Oversight Board wishes to adopt this Resolution, finding that the Loan was made for legitimate redevelopment purposes and authorizing future repayment of the Loan by the Successor Agency, subject to the requirements of HSC Section 34191.4(b).

O. It is recognized that, pursuant to HSC Section 34191.4(b), the repayment amount authorized each fiscal year for all loans re-established pursuant to HSC Section 34191.4(b) to be repaid by the Successor Agency to the City shall not exceed one-half of the increase between the amount distributed to taxing entities pursuant to HSC Section 34183(a)(4) in that fiscal year and the amount distributed to taxing entities pursuant to HSC Section 34183(a)(4) in the 2012-13 base year.

P. It is further recognized that HSC Section 34191.4(b)(2) provides that 20 percent of each Loan repayment will be deducted and transferred to the Low and Moderate Income Housing Asset Fund established and held by the Orange County Housing Authority, in the Housing Authority's capacity as the housing successor to the Former RDA pursuant to HSC Section 34176.

NOW, THEREFORE, THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE SEAL BEACH REDEVELOPMENT AGENCY, HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. For the purposes of HSC Section 34191.4, the Oversight Board hereby finds that the Loan was for legitimate redevelopment purposes, and the Sewer Easement Loan Agreement is an enforceable obligation; provided, that the repayment terms thereunder shall be modified in accordance with the requirements of HSC Section 34191.4(b).

Section 3. The Oversight Board hereby authorizes the Finance Officer of the Successor Agency to develop a repayment schedule for the Loan in accordance with the requirements of Section 34191.4(b). Recognizing that the actual dollar amount to be repaid by the Successor Agency for each scheduled repayment is subject to the availability of funds from the Redevelopment Property Tax Trust Fund and the limitations set forth in HSC Section 34191.4(b), the Finance Officer of the Successor Agency is hereby authorized to modify the repayment schedule from time to time based on the requirements of HSC Section 34191.4(b) and the actual circumstances at the time of the modification.

Section 4. The members of the Oversight Board and officers of the Successor Agency are hereby authorized, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this Resolution.

PASSED, APPROVED AND ADOPTED by the Oversight Board at a meeting held on the 26th day of February, 2014.

AYES: Board Members: Hoang, Ingram, Payne, Shanks

NOES: Board Members: None

ABSENT: Board Members: Loritt Meyer

ABSTAIN: Board Members: None


Chair, Oversight Board

ATTEST:


Secretary, Oversight Board

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF SEAL BEACH)

I, Linda Devine, Secretary to the Oversight Board, hereby certify that the foregoing resolution was duly adopted at a meeting of the Oversight Board, held on the 26th day of February, 2014.


Secretary, Oversight Board